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Leaping into the leak fray

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Many groups go wild at their conventions but few have strayed as far as the American Society of Newspaper Editors at its recent session in Washington, D.C.

Whooping it up is one thing, but claiming that espionage laws do not apply to the news media amounts to an indecent assault on the First Amendment.

Following ASNE's vote to join as a friend-of-the-court in appealing the espionage conviction of Samuel Loring Morison, ASNE's attorney announced: "What we want to clarify is that the espionage laws, as used in the Morison case or any other case of that kind, do not apply to the press."

Somebody should have tossed the lot of them in the tank to cool off for a couple of days.

They certainly didn't persuade the director of Central Intelligence,

William J. Casey, and in fact may have galvanized him into action. Shortly after ASNE's brazen grab for privilege, Mr. Casey met with Ben Bradlee, executive editor of The Washington Post, and warned him — according to a Post story — that Mr. Casey would seek criminal prosecution if The Post published a planned article about U.S. intelligence operations.

The New York Times later reported that the article in question was about classified documents from the National Security Agency sold to Soviet agents by an NSA employee now awaiting trial on charges of espionage.

On May 8, The Boston Globe reported that Mr. Casey had also told Mr. Bradlee he knew of "five absolutely cold violations" of federal laws on the security of classified information involving not just The

Post, but also The New York Times, The Washington Times, Time, and Newsweek. Mr. Casey is said to have conferred with the Justice Department about the possibility of prosecuting these news organizations.

[Mr. Casey last Thursday told a Washington audience that he would not at this time favor action based on past incidents, but wanted the laws enforced in the future. Meanwhile, it was reported by The New York Times that the White House has been engaged in "negotiations" with The Washington Post about the potential publication of information classified as secret that The Post has received.]

So the battle lines seem to be drawn in this far-from-esoteric ar-

gument about the nature of freedom and responsibility. To have had it sparked by the Morison case, however, borders on the ridiculous.

You may remember Morison, a civilian employed by U.S. Naval Intelligence who stole some classified photographs — taken by a KH-11 reconnaissance satellite and disclosing construction of the Soviet's first nuclear aircraft carrier — from a fellow-worker's desk. Morison peddled them to a military journal published in England in the hope the magazine would hire him full-time.

When questioned at his trial about his little boyish prank, Morison claimed he had done it because he wanted to alert Americans to the Soviet naval buildup.

Yeah, sure. He got two years in the slammer — the sentence that is now on appeal.

Let us see if we can possibly determine why ASNE wants to help in that appeal. No one — not even his own lawyer — has claimed Morison is a reporter or has been prosecuted as a member of the media. He is a *leaker*, and his attorney has said: "Once you let the genie out of the bottle and apply the espionage statute to leaks, there is nothing on its face to prevent it from being used against the reporter as well as the leaker."

ASNE must figure that if the feds are going to come and get the

leakers, they might next come after the publishers of leaked classified information.

So ASNE leaped into the fray on the side of the leaks and the leakers. And perhaps one result of this was Mr. Casey's hortative visit with Mr. Bradlee.

Because indeed the press is mistaken if it believes it can publish matters of high national security without regard to the powers of government to keep such matters secret.

There are some human actions for which it is correct to hold the agent of those actions morally responsible. One of these is certainly espionage. The First Amendment has no language that suggests the press is incapable of committing that crime or is insulated from prosecution for it.

Freedom of the press is a massive shield, and a powerful one, but those who carry it are not thereby rendered infallible or invulnerable. If they do wrong, they must answer for it — to the public and in the courts.

To adopt Morison as its mascot does not ennoble the American Society of Newspaper Editors. Neither does the editors' apparent inference that the laws relating to espionage amount to censorship. We fought a revolution in this country to establish and assure that no man was above the law.

Mr. Casey's visit was to remind the media that we meant that — and that no one has ever seen a footnote that excepts reporters.

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